

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

In re: OHIO EXECUTION
PROTOCOL LITIGATION,

: Case No. 2:11-cv-1016

Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

This Order relates to Plaintiff
Robert Bethel.

ORDER STRIKING NOTICE OF DISMISSAL

This case is before the Court upon the filing of a Notice of Voluntary Dismissal by Plaintiff Robert Bethel, purportedly pursuant to Fed. R. Civ. P. 41(a)(1)(A)(1)(ECF No. 1431). Bethel's Notice purports to end his "continued involvement as a plaintiff in the Fourth Amended Omnibus Complaint." *Id.* at PageID 55282. Bethel asserts "[t]he defendants have not served him with either an answer or a motion for summary judgment." *Id.*

Fed. R. Civ. P. 41(a)(1)(A)(1) allows dismissal of an "action," not of involvement with a particular amended complaint. Bethel filed his initial complaint in this case on September 28, 2011 (ECF No. 19). Defendants served an Answer on October 5, 2011 (ECF No. 33). The power of a plaintiff to voluntarily dismiss without consent of other parties or a court order is not resurrected by the filing of an amended complaint.

The Notice of Voluntary Dismissal is STRICKEN as ineffective under the Rule.

February 22, 2018.

s/ *Michael R. Merz*
United States Magistrate Judge